

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.
CHARLES LEBEAU; VICTORIA
LEBEAU, et al.,

Defendants.

Case No. 10cv817 BTM(NLS)

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
STAY AND DENYING MOTION TO
DISMISS**

Defendants have filed a motion to stay this case, or in the alternative, to dismiss it without prejudice based on petitions filed by Charles LeBeau and Victoria LeBeau with the United States Tax Court. Charles LeBeau's petition concerns the same tax years (2002 through 2007 tax years) that are at issue in the second claim of the United States' amended complaint. Therefore, a stay of litigation relating to the United States' second claim, pending resolution of Charles LeBeau's Tax Court petition, is warranted. However, there does not appear to be any basis for staying the rest of the litigation. The Tax Court petitions filed by Charles LeBeau and Victoria LeBeau do not implicate the United States' first, third, and fourth claims in this case. Accordingly, Defendants' motion to stay is **GRANTED** as to litigation pertaining the United States' second claim and is otherwise **DENIED**. Defendants' motion to dismiss the case without prejudice is **DENIED**. Litigation on the United States' second claim is **STAYED** pending Tax Court proceedings on Charles LeBeau's petition.

1 The United States' pending motion for partial summary judgment does not relate to
2 the United States' second claim. Therefore, the Court may rule upon it. The Court continues
3 the hearing on the United States' motion to **July 22, 2011 at 11:00 a.m.** Plaintiffs'
4 opposition to the motion is due on or before July 8, 2011. Any reply is due on or before July
5 15, 2011. Unless otherwise directed by the Court, there shall be no oral argument, and no
6 personal appearances are necessary.

7 The Court sets a status conference regarding the Tax Court proceedings for
8 **December 14, 2011 at 3:30 p.m.**

9 **IT IS SO ORDERED.**

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12 DATED: June 13, 2011



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14 Honorable Barry Ted Moskowitz
United States District Judge
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